IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3316 OF 2005

Gyanba Dhondiba Kamthe & Ors. ..Petitioners.

Vs.

The State of Maharashtra & Ors. ..Respondents.

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Mr.S.A.Sawant for the Petitioners.

Mr.V.S.Gokhale, AGP for Respondent No.1 - State.

Mr.Pethe h/f Mr.R.G.Ketkar for Respondent Nos.2 and 3.

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CORAM : A.P.SHAH &

DR.D.Y.CHANDRACHUD, JJ.

9th August, 2005.

P.C. :

The Petitioners had earlier filed Writ Petition No.366 of 2004 seeking direction to the Respondent Corporation to undertake widening of the Pune-Solapur Road only in accordance with the Development Plan which has become final as on 5th January, 1987 and not to take away any other land

save and except as may be required for widening of the road as per the Development Plan. In that Petition, the Division Bench recorded the statement of learned counsel appearing for the Corporation that as far as the Petitioners are concerned, the Corporation will acquire only that part of the Petitioners' property which falls within the roadline as per the Development Plan. It was further stated by counsel appearing for the Corporation that for the purpose of acquiring the portion of the Petitioners' property, the Corporation shall not rely upon the plan which has been annexed to Resolution dated 20th August, 2002 and the Petitioners' property or any part thereof which does not fall within the roadline as per the Development Plan shall not be acquired. In view of the above statement, the Writ Petition came to be disposed of.

In the present Petition, a grievance is made that the Corporation is trying to acquire the property contrary to the directions given by this Court vide order dated 8th July, 2004. Therefore, with the consent of both the parties we directed the City Survey Officer to take inspection of the

site and make a report to this Court whether the proposed acquisition is in consonance with the order of the Court dated 8th July, 2004. The City Survey Officer has submitted a report dated 28th July, 2005 that the property of the Petitioners bearing Survey No.230/5 part) falls within purview/boundry of sanctioned Development Plan of 1987 and the acquisition is in consonance with the Development Plan. The Petition is dismissed.